THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4317 of 1998

Dated: 13.07.2006

Between
A.Varadaiah

…..Petitioner

and

1.The Anantapur Coop Central Stores Limited, rep., by its General Manager, Anantapur and others.

….Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4317 of 1998

ORDER:

This writ petition is filed seeking a Mandamus declaring the award, dated 17.8.1988 in Claim No.1 of 1988-89 of the 4th respondent and Judgment of the 2nd respondent dated 27.2.1997 in CTA No.140 of 1996 as arbitrary and illegal.

It seems that the 3rd respondent was appointed as helper in the stores of the 1st respondent. The petitioner herein as well as the mother of the 3rd respondent stood as guarantors to indemnify the first respondent, for misappropriation, if any, committed by the third respondent. Thereafter, it seems that the 3rd respondent committed certain irregularities and misappropriated funds and therefore, an amount of Rs.35,000/- was sought to be recovered from the petitioner as well as the mother of the 3rd respondent. The 3rd respondent and the mother of the petitioner filed CTA 1 of 1988. The CTA was dismissed holding as under:

> "In the result, the appeal is dismissed with costs directing the respondent to realize the amount of Rs.35,383.55 ps from out of the property of the 2nd appeallant herein after the said properties are brought for sale and after the claim of the respondent is not satisfied then only the respondent is entitled to proceed against the property of the 1st appellant which is attached. "

The petitioner filed a separate appeal CTA No.140 of 1996 and the same was dismissed on 27.2.1997.

Now the grievance of the petitioner is that when the 3rd respondent and his mother filed CTA , the appeal was dismissed as noticed above whereas the appeal filed by the petitioner was dismissed without any such observation.

In view of the above, the impugned order passed in CTA No.140 of 1996 dated 27.2.1997 is modified to the following extent.

> "In the result, the appeal stands dismissed upholding the Award and execution proceedings thereon without costs. The respondent shall realize the amount of Rs.35,400/- from out of the property of the 3rd respondent herein after the said properties are brought for sale and thereafter if the claim of the respondent is not satisfied then only the respondent is entitled to proceed against the property of the 1st appellant which is attached."

With the above modification, the writ petition is disposed of. No costs.

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13.07.2006

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